

Draft Decision Notice
and
Finding of No Significant Impact

for
Confluence Meadow Restoration Project Environmental Assessment
USDA Forest Service, Lassen National Forest
Eagle Lake Ranger District
Lassen County California

Background

The Confluence project area encompasses approximately 200 acres of National Forest System lands administered by the Eagle Lake Ranger District (ELRD) of the Lassen National Forest (LNF). The project stems from an assessment of meadow and stream conditions along Pine Creek from its headwaters to Eagle Lake in 2015. This is one of many projects in the Pine Creek watershed that have been planned and carried out by the US Forest Service and multiple partners as part of the Pine Creek Coordinated Resource Management Planning (CRMP) Group. The CRMP formed in 1987 to coordinate efforts to improve hydrologic conditions in Pine Creek, restore the stream/riparian ecosystem, and to restore a natural Eagle Lake rainbow trout (ELRT) fishery in Pine Creek (Pustejovsky 2007).

Degraded habitat conditions, along with historic commercial fishing and poaching, led to a drastic decline in the population of ELRT by the 1930s. A fish trap and barrier were built in the 1950s near the lake on Pine Creek and ELRT began to be reared entirely in a fish hatchery to prevent possible extinction. Although a very successful hatchery operation is in place for ELRT, natural propagation of this subspecies is not occurring. Suitable spawning habitat is available in the upper reaches, but because of deteriorated conditions along the migration route, successful ELRT spawning would be limited to wet years with prolonged higher flows (Pustejovsky 2007).

Based on the 2015 assessment Confluence Meadow was identified as a top candidate for restoration action based on channel incision, gullies, bank stability, and the presence of headcuts. Restoration actions that raise the channel bed and re-water the meadow floodplain have been a successful approach to meet both watershed and fish migration goals for incised channels. The Confluence Meadow Environmental Assessment (EA) documents the analysis of 2 alternatives to meet this need.

Project Area

The project area is roughly 24 air miles northwest of Susanville, Lassen County, California, just east and southeast of the Blacks Mountain Experimental Forest. Included are portions of Township (T) 32 North (N), Range (R) 9 East (E), Sections (S) 4-5; T33N, R9E, S33 of the Mount Diablo Meridian.

The project occurs in the southwestern portion of a meadow system where Pine Creek and Little Harvey Creek join referred to as Confluence Meadow. The portion of Pine Creek flowing through Confluence Meadow will primarily be used as a migration corridor for ELRT. Project work will occur over approximately 200 acres total in the 5th field Middle Pine Creek Valley watershed and Squaw Valley-Pine Creek 6th field subwatershed¹ within the Harvey (MA 12) Management Area, as identified in the 1992 LNF Land Resource Management Plan (LRMP).

Decision

I have read the Confluence Meadow Restoration Project Environmental Assessment (EA), reviewed the analysis in the project file, including documents incorporated by reference, and fully understand the environmental effects disclosed therein. I have also considered the comments submitted during the public scoping and the 36 CFR 218 Legal Notice and Comment period for this project. Comments on this EA and Forest response to these comments are available in the project file.

Based upon my review of the alternatives, it is my decision to select Alternative 1, the Proposed Action, which is fully described in the EA on pages 7 through 11. My decision is also based on a thorough review of the record with consideration for scientific integrity and responsible opposing views.

My decision will restore hydrologic conditions in Confluence Meadow and Pine Creek will be reconnected to its historic floodplain. This will involve filling approximately 1.2 miles of the existing, entrenched channel of Pine Creek and 0.37 miles of Little Harvey Creek where it has been ditched. Stream flows will occupy historic remnant channels within the meadow and increase the base elevation of Pine Creek.

A phased approach will be used to first implement the restoration activities and allow the area to revegetate, and second to allow Pine Creek to adjust and evolve through time in both the western and eastern flow paths. An existing network of historic remnant channels provide continuous flow paths across the floodplain, minimizing the need to construct new channels.

My decision will also apply livestock management strategies that provide sufficient opportunity for plants to establish and grow. These strategies will control intensity, timing, and length of the grazing period.

My decision includes Integrated Design Features (IDFs) necessary to protect resources within the Confluence Meadow Restoration Project area. The IDFs are described in detail on pages 11 - 13 of the EA.

Reasons for the Decision

I have decided to implement Alternative 1, the Proposed Action, because it addresses the purpose and need which is described in the EA on pages 4 - 7. My decision is based on comments generated through collaboration and public scoping. Public input was considered during various phases of the project and is

¹ US Geological Survey Watershed Boundary Dataset, 2012.

addressed within the project record. My decision is also based on careful consideration of the analysis presented in the EA and project specialist reports, including a thorough review of the record with consideration for scientific integrity.

Alternative 1 addresses the objectives of the Confluence Meadow Restoration Project by providing a range of solutions to create stream and meadow conditions that are favorable to ELRT migration.

Response to the Purpose and Need

I selected Alternative 1, the proposed action, because:

1. It halts the ongoing, chronic down cutting and widening of the Pine Creek channel. (EA, p. 7)
2. It reconnects Pine Creek to its floodplain which will increase near-surface groundwater storage and prolong flow in early season (EA, pp. 15 - 16)

In addition to meeting the Project purpose and need, it is expected that there will be a long-term improvement in riparian and aquatic habitat which will benefit a number of wildlife species in addition to ELRT. (EA, p. 16).

Alternatives Considered

Two alternatives were considered in detail for the Confluence Meadow Restoration Project, the Proposed Action (Alternative 1) and the No Action (Alternative 2). Public comments were important in evaluating this project and making my decision. All suggested changes to elements of the proposed action received from the public were considered. There were no significant issues identified during the scoping process that led to development of additional alternatives.

Alternative 1: Proposed Action

Alternative 1 was developed by an interdisciplinary team (IDT) of resource specialists to address all components of the Purpose and Need as outlined in the scoping document. The primary goal of Alternative 1 is to restore Pine Creek to more natural condition in order to improve migration habitat for the Eagle Lake Rainbow Trout.

Alternative 1, the proposed action, is the selected alternative and is discussed throughout this Decision Notice.

Alternative 2: No Action

Under the *No Action* alternative, current management plans would continue to guide management of the project area and the actions proposed in Alternative 1 would not occur.

Public involvement

The following list outlines the public involvement process for the Confluence Meadow Restoration Project:

- The project has been listed in the Lassen National Forest Schedule of Proposed Actions (SOPA)

since December 18th, 2017.

- The project proposal was presented and discussed with the Pine Creek Coordinated Resources Management Group on January 27th, 2016; October 27th, 2016; and during a field tour to the site on May 31st, 2017.
- The project proposal was discussed with the range permittees from the area in May 2017.
- The project proposal was discussed with the Lahontan Regional Water Quality Control Board (LRWQCB) and California Department of Fish and Wildlife in May 2017.
- Susanville Indian Rancheria, the Pit River Tribe, Greenville Rancheria and Maidu Summit Consortium and Conservancy were consulted at quarterly meetings and mailed a copy of the scoping document regarding this project.

Scoping for this project was initiated on December 18th, 2017. Individuals and groups that expressed interest in response to the SOPA were mailed a copy of the scoping document for this project. The scoping document was also made available on the LNF website. One comment letter was received and reviewed by district staff. No issues were raised that required modifying the proposed action.

The draft Confluence Meadow Restoration Project Environmental Assessment was completed and mailed on August 20, 2019 to the entity who previously provided comments, to the Tribes listed above, and a legal notice was published in the Lassen County Times. As part of the pre-decisional involvement process opportunity to comment was provided until September 20, 2019. All suggested changes to elements of the EA received from the public were considered. The LRWQCB provided comments with regards to criteria for successful revegetation and implementation of grazing standard and guides. A revegetation plan is in the project record and attached to the final EA as Appendix A. Grazing standards and guides from the LRMP are included as part of Term Grazing Permits. The analysis of the public comments is contained in the document titled, “Confluence Meadow Restoration Project Legal Notice Comment Analysis” (located in the Confluence Project Record, ELRD office).

Finding of No Significant Impact

The significance of environmental impacts must be considered in terms of context and intensity, as defined by Forest Service Handbook 1909.15_05. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human and national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. In the case of a site-specific action, significance usually depends upon the effects in the locale rather than in the world as a whole. Intensity refers to the severity or degree of impact (40 CFR 1508.27).

As the responsible official, I have evaluated the effects of the project relative to the definition of significance established by the CEQ Regulations (40 CFR 1508.13). I have reviewed and considered the EA and documentation included in the project record, and I have determined that the selected alternative will not have a significant effect on the quality of the human environment. As a result, no environmental impact statement will be prepared. My rationale for this finding is as follows, organized by sub-section of the CEQ definition of significance cited above.

(a) Context:

For the proposed action and alternatives, the context of the environmental effects is based on the environmental analysis in the EA.

The local context of Alternative 1, the proposed action is limited to a small portion of the Lassen National Forest, in the location described previously in this decision notice and in the EA (pages 1-3). Proposed treatments focus on filling the incised, widened channel of Pine Creek, and re-directing flow to existing remnant channels. Areas of bare soil will be re-vegetated as prescribed in a project-specific revegetation plan. These actions will trend the Confluence Meadow area toward more natural hydrologic characteristics and flow patterns. Proposed treatments and any follow up is expected to take place within three years of the Final Decision, with provisions to continue revegetation efforts if needed. Even in the context of seasonality and duration of activities, analysis prepared in support of the EA (Biological Evaluations, Management Indicator Species Assessment, Noxious Weed Risk Assessment, and other cumulative effects analysis, and available in the project record), indicate that Alternative 1, the Proposed Action would not pose significant short-term or long-term effects.

(b) Intensity:

Intensity is a measure of the severity, extent, or quantity of effects, and is based on information from the effects analysis of this EA and the references in the project record. The effects of this project have been appropriately and thoroughly considered with an analysis that is responsive to concerns and issues raised by the public. The Forest has taken a hard look at the environmental effects using relevant scientific information and knowledge of site-specific conditions gained from field visits. My finding of no significant impact is based on the context of the project and intensity of effects using the ten factors identified in 40 CFR 1508.27(b) and displayed below.

1. *Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.*

Effects determinations are summarized in the Confluence Meadow Restoration Project EA (pages 14 – 25) and supporting analysis. Both beneficial and adverse effects have been taken into consideration when making the determination of significance. Beneficial effects have not, however, been used to offset or compensate for potential significant adverse effects.

2. *The degree to which the proposed action affects public health or safety.*

After considering the analysis in the EA, I conclude that this decision would not significantly affect public health or safety because of the limited scope of the actions. There will be a temporary safety hazard to the public during construction activities due to equipment operating on established forest roads. Roads within the project area may be closed to the public on a temporary basis for safety reasons. Typically these closures are necessitated by roads being blocked by heavy equipment operations during project implementation. These closures are expected to be of limited duration lasting within a range of minutes to a few hours.

3. *Unique characteristics of the geographic area such as the proximity to historical or cultural resources, parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

I conclude that this decision will not have a significant effect on any unique characteristics and ecologically critical areas on the Eagle Lake Ranger District. There will be no significant effects on unique characteristics of the area because there are no such areas to be affected within the project area. (EA, Pages 1 - 3).

4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

The effects on the quality of the human environment are not likely to be highly controversial. Based on comments received during the public involvement process, there is no substantive scientific controversy related to the effects of Alternative 1, the proposed action. (See Scoping Comment Analysis and Confluence Meadow Restoration Project Legal Notice Comment Analysis).

5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

The possible effects of the proposed action are neither highly uncertain nor will they present unique or unknown risks. The proposed action will implement watershed management practices in a flat, relatively low flow area with low risk. The consequences of these actions are known, as described in each specialist report and summarized in the EA (see EA pages 14 - 25).

6. *The degree to which the action may establish precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

The Confluence Meadow Restoration Project is site-specific and is not likely to establish a precedent for future significant effects because no significant environmental effects were identified. Any future resource management projects would require a separate environmental analysis at that time.

7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.*

This decision does not represent potential significant cumulative adverse impacts when considered in combination with other past, ongoing, or reasonably foreseeable future actions. A cumulative effects analysis was completed for each resource area. This determination is based in the discussion of cumulative effects in the EA (EA, pages 14 – 25). The geographic scope of the cumulative effects analysis varied among resource areas (EA pages 14 - 25). None of the specialists found the potential for significant adverse cumulative effects. The Past, Ongoing, and Reasonably Foreseeable Future Actions Summary (PORFFA) can be found in the project record.

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.*

The action will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, because standard resource protection measures as defined in the Regional Programmatic Agreement and Interim Protocol will be employed as integrated design features and applied to all heritage resources within the area of potential effect (see EA pages 23-25).

9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.*

Because the project area is outside the range of the species, or due to the lack of suitable habitat in the project area, it was determined by the project biologist and botanist that Alternative 1 would have no effect on any Federally Listed threatened or endangered species or their critical habitat. (see EA pages 17-21, 23)

10. *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA (see EA page 2). Required permits will be obtained prior to implementing activities.

Findings required by other laws and regulations

Lassen National Forest Land and Resource Management Plan (LRMP) - Forest Plan Consistency

This decision is consistent with the 1992 *Lassen National Forest Land and Resource Management Plan* (LRMP) and 1993 *Record of Decision* (ROD) as amended by the *Sierra Nevada Forest Plan Amendment* (SNFPA) FSEISs and RODs (2004), and the *Sierra Nevada Forests Management Indicator Species* (SNF MIS) Amendment FEIS and ROD (2007).

Clean Water Act [as amended in 1972 (Public Law 92-500) and 1977 (Public Law 95-217)]

All federal agencies must comply with the provisions of the Clean Water Act. The Clean Water Act regulates forest management activities near Federal surface waters and riparian areas. The Proposed Action alternative meets the terms of the Clean Water Act for non-point sources of pollution, primarily pollution caused by erosion and sedimentation. As described in the 2004 SNFPA FEIS, compliance with the Clean Water Act is accomplished through implementation of Best Management Practices for National Forests in California (USDA FS 2000a). Permits to comply with sections 401, 402, and 404 of the Clean Water Act will be necessary because this project will require work involving dredge and fill construction activities that total one or more acres in waters of the United States that have the potential to affect water quality. The Forest Service would fulfill all requirements and obtain approved permits and waivers through the US Army Corps of Engineers and Lahontan Water Quality Control Board before project implementation could begin.

The State and Regional Water Quality Control Boards entered into agreements with the Forest Service to control non-point source discharges by implementing control actions certified by the State Water Quality Control Board and the Environmental Protection Agency (EPA) as best management practices (BMPs). These BMPs are designed to protect and maintain water quality and prevent adverse effects to beneficial uses both on-site and downstream. In addition, the land-disturbing activities will be dispersed in space and limited in size so that the sub-watersheds will not reach or exceed the threshold of concern for overall watershed disturbance (EA pages 19-20).

Migratory Bird Treaty Act of 1918 as amended (16 USC 703-712)

At the project scale, pertinent standards and guidelines will be implemented to maintain habitat diversity. Habitat modification will not cause a measurable negative effect to migratory bird populations. This is due to the small amount of acreage where project activities will occur during the breeding season relative to the large amount of migratory bird habitat across Lassen NF. Lassen NF will comply with Terms and Conditions for the protection of migratory birds as provided by the USFWS.

Additionally, as discussed further in the resource reports, this project is also in compliance with the *Endangered Species Act (1973, as amended)*, *National Historic Preservation Act (1966, as amended)*, and the *Clean Air Act (1963, as amended)*.

Best Available Science

I am confident that the analysis of this project was conducted using the best available science. My conclusion is based on a review of the record that demonstrates a thorough review of relevant scientific information, consideration for opposing views, and acknowledgement of incomplete or unavailable information, scientific uncertainty, and risk. Please refer to the specialist reports in the project file for specific discussions of the science and methods used for analysis and for literature reviewed and referenced.

Objection Opportunities

This decision will be made in accordance with the procedures described in 36 CFR 218, Subparts A and B, which provides for a pre-decisional review process.

Implementation

As per 36 CFR 218.12, if no objections are filed within the 45-day legal objection period, this decision may be signed and implemented on, but not before the fifth business day following the close of the objection-filing period. If an objection is filed, a 45-day objection resolution period would follow, and the decision cannot be signed or implemented until the reviewing officer has responded in writing to all pending objections.

Contact

For further information concerning the Confluence Meadow Restoration decision on the Eagle Lake Ranger District, please contact Doug Peters by phone at 530-252-6456 during normal business hours or by email at dwpeters@fs.fed.us.

Carol Thornton
District Ranger, Eagle Lake Ranger District
Lassen National Forest

Date: February 4, 2020

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